

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7787**

**BILL NUMBER:** SB 423

**NOTE PREPARED:** Feb 11, 2005

**BILL AMENDED:** Feb 10, 2005

**SUBJECT:** Forfeiture of Public Pensions for Misconduct.

**FIRST AUTHOR:** Sen. Clark

**FIRST SPONSOR:**

**BILL STATUS:** CR Adopted - 1<sup>st</sup> House

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill provides in certain circumstances for the forfeiture of all or a portion of a pension benefit from the State Excise Police and Conservation Enforcement Officers' Retirement Fund, the Public Employees' Retirement Fund (excluding employees of the judicial and legislative departments of state government), and the State Police Benefit System.

It permits a pension fund administrator (administrator) to begin an investigation concerning a possible forfeiture whenever: (1) criminal charges are filed; or (2) the Inspector General files a report with the Attorney General or a prosecuting attorney.

If the administrator decides by a majority vote to conduct further proceedings, it requires the administrator to wait until the criminal case is completed before holding a public hearing to determine whether forfeiture is appropriate. The bill establishes due process requirements for a forfeiture hearing. It requires a majority vote by the administrator, based on clear and convincing evidence, to forfeit a pension benefit. The bill requires the administrator to issue a written determination, including findings of fact.

It allows a fund member to request that the administrator reconsider the administrator's forfeiture determination. The bill provides for the return of a fund member's contributions with interest when the pension benefit is forfeited. It provides that the administrator's evidence concerning forfeiture is confidential until the earlier of: (1) the time the fund member is notified of the forfeiture hearing; or (2) the time the fund member elects to have the records made public. The bill provides that the administrator's final determination is available for inspection and copying.

**Effective Date:** July 1, 2005.

**Explanation of State Expenditures:** *Benefit Forfeiture:* The specific impact on any fund listed will depend upon several factors such as age of the member, marital status, salary, years of creditable service, years to a full retirement benefit, and the actuarial reduction as determined by the actuary for the respective fund. The actuarial reduction is the reduction in the normal retirement benefit that offsets a cost increase to the plan when a participant retires ahead of schedule.

The funds affected are: (1) the state General Fund; (2) the Motor Vehicle Highway Account and the Motor Carrier Regulation Fund; (3) the Fish and Wildlife Fund; (4) the Administrative Fund; and (5) various dedicated funds.

*Administrative Costs:* There may be additional administrative expenditures, unknown at this time, related to meetings and copying of documents. Additional expenditures are expected to be minimal.

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**Explanation of State Revenues:**

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** The State Excise Police and Conservation Enforcement Officers' Retirement Fund, the Public Employees' Retirement Fund, and the State Police Benefit System.

**Local Agencies Affected:**

**Information Sources:**

**Fiscal Analyst:** James Sperlik, 317-232-9866.